









A DEPARTMENT OF REVENUE





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What's New?

City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

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Baker-Polito Administration Files Comprehensive Municipal Modernization Bill

Lieutenant Governor Karyn Polito

Happy holidays to all of you!

I'd like to begin with the final update of the year on the <u>Community</u> <u>Compact Program</u>. More than 150 applications have been submitted, 83 compacts have been signed, and 25 more will be signed before we ring in 2016. These compacts are in cooperation with communities from across the Commonwealth. Governor Baker and I are continually impressed with the keen interest cities and towns have shown in achieving the best practices and we look forward to fostering these efforts in the upcoming year.

This month, our Administration entered into the next phase of support for municipalities, a promise we're dedicated to keeping. At the State House, we were joined by mayors, managers, assessors, procurement officers, and other finance officials from across the Commonwealth to announce the filing of "An Act to Modernize Municipal Finance and Government." This municipal modernization bill promotes smarter and more efficient government by updating obsolete laws, increasing local independence, streamlining state oversight, and providing municipalities with greater flexibility.

As former local officials, the Governor and I are proud to see this proposal embraced by our municipal colleagues as it's the direct result of a collaborative effort to addresses many of the concerns we've heard from cities and towns. While most of the attention surrounding the legislation has focused on liquor licenses, double utility poles, municipal notification procedures, and procurement changes, the majority of this legislation is intended to reduce the unnecessary and cumbersome regulations and bureaucratic requirements that impede efficient and effective local governance. We appreciate the continued support of our partners as we move forward in the legislative process.

If you haven't had the chance to review it fully, I invite you to visit <u>our website</u> to learn more about the bill. I'd also like to thank the bureau chiefs of the Division of Local Services (DLS) for taking the time to highlight some of the proposals contained in the legislation for this edition of *City & Town*.

As always, thank you for all that you do for cities and towns. We remain committed to supporting and assisting you in this important work. See you in 2016!

By the Numbers

City & Town will provide updates on the progress of the tax rate and certification season in each edition through the rest of the calendar year. In addition to these helpful statistics, we're also pleased to announce that for the first time you can now follow the tax rate setting process in real time. Thanks to our Municipal Databank staff, this public information is available 24/7 by clicking here.

Preliminary Certifications: 115 Communities Approved

Final Certification: 114 Communities (of 117 Total in Certification Year)

LA4/ New Growth: 347 Approved (348 Submitted)

Tax Rates: 315 Approved

Balance Sheets: 255 Approved

Aggregate Free Cash Approved Total: \$923,867,633

Municipal Finance Law Bureau Muni Modernization Highlights

Kathleen Colleary, Esq. - Municipal Finance Law Bureau Chief

Several proposals in "An Act to Modernize Municipal Finance and Government" relate to statutory duties currently performed by the Bureau of Municipal Finance Law. They would eliminate outdated laws requiring the printing and distribution of forms and allow the use of electronic formats by assessors and collectors. They also remove requirements in MGL c. 59, sec. 11 that assessors obtain prior approval of the Department of Revenue to assess owners unknown, the holder of a present interest and the beneficial owners of cluster development open space.

The bill includes a number of additional tools for the collection of local taxes, charges and fines.

First, by local option, municipalities and districts can establish a lien and add unpaid utility bills to local real estate tax bills (Sections 30 and 184). Lighting plants, water departments and sewer departments sometimes provide services to customers in neighboring communities. Only lighting plants, however, may impose liens on property located outside the borders of the municipality where the plant is located. The bill amends MGL c. 40, sec. 42A (water charges) and MGL c. 83, sec. 16A (sewer) to extend the lien provisions to customers located in neighboring communities. The bill also makes the duration of a lien for a demolition charge under several statutes the same period as the lien for the real estate tax to which it is added if added in the next fiscal year. This is similar to the duration of water, sewer and light plant liens.

Another local option statute, MGL c. 40, sec. 58, permits cities and towns to vote to impose a "municipal charges lien" on real property to collect a local charge or fee that remains unpaid. The bill (Section 35) amends that statute so that cities and towns may also establish the lien for an unpaid fine. The local charge, fee or fine must be imposed by bylaw, ordinance or regulation or by a state court payable as a result of a municipality's action to enforce its bylaws, ordinances or regulations. The lien takes effect upon the recording of a list of unpaid municipal charges, fees or fines in the local Registry of Deeds. If the charge, fee or fine secured by the municipal charges lien remains unpaid when the assessors are preparing their tax list, then the amount unpaid is added to the real estate tax bill for purposes of collection. Local option statute MGL c. 40U facilitates municipal enforcement of those fines imposed for violations of municipal housing, sanitary code and municipal snow and ice removal requirements by authorizing imposition of a lien on the

property. However, it is vague regarding the procedure for doing so. The bill (Section 48) makes the procedure for imposing the liens for these unpaid regulatory fines the same as for the municipal charges lien.

Under local option statute MGL c. 40, sec. 57, a city or town may deny, suspend or not renew certain licenses or permits where the local tax or charge has been delinquent for at least 12 months. The bill (Sections 33-34) removes the requirement that the delinquency be for at least 12 months, to the extent provided in the implementation bylaw or ordinance.

The bill also expands the jurisdiction of small claims court to include actions to collect personal property taxes regardless of the amount owed (Section 234-235). This change would provide collectors with a greater ability to make effective use of lawsuits as a remedy in the collection of delinquent personal property taxes where there is only personal liability for the taxes and no lien as there is with regard to real estate taxes.

Two proposals deal with retiree health insurance. The first (Section 14) amends MGL c. 32B, sec. 20 to provide expressly for the creation of a trust fund to reserve money for retiree health insurance and other postemployment benefits (OPEB) that complies with standards of the Governmental Accounting Standards Board (GASB) and the Internal Revenue Service. This proposal also expands the definition of political subdivisions and local governmental entities able to establish trust funds to include housing authorities, redevelopment authorities, regional councils of government, regional school districts and educational collaboratives. Local governmental entities would have a number of investment options for the trust fund thereby removing the need for special legislation. The statute, as amended, also includes actuarial reporting requirements to allow the Department of Revenue and the Public Employment Retirement Administration Commission (PERAC) to monitor more carefully local OPEB liabilities.

The second proposal (Section 13) repeals the current law regarding retiree health cost sharing. Currently, MGL c. 32B, sec. 9A1/2 provides that a local governmental unit from which an employee is retired may seek reimbursement from other local governmental units for a portion of the retiree's health care premiums corresponding to the percentage of the retiree's creditable service attributable to each governmental unit. The intent of the statute is to share cost of health insurance premiums, but it has proven unworkable in that it does not provide a precise mechanism to determine liability for costs or to collect the amounts billed.

For additional information including the full bill text, please see the below links.

Bill Text & Filing Letter

- Section by Section (DOC)
- Section by Section (PDF)
- Press Release

Bureau of Local Assessment Muni Modernization Highlights

Joanne Graziano - Bureau of Local Assessment Chief

Several proposals in "An Act to Modernize Municipal Finance and Government" relate to local assessment.

Certification of Local Property Assessments (Sections 31-32, 243)

- Since Proposition 2 1/2 took effect in 1982, BLA has certified that local property assessments reflect fair cash value every three years. This legislation seeks to change the frequency of these certifications from three years to five years. The level of knowledge and professionalism amongst local tax assessors has made the three year certification burdensome and costly for many communities. In addition, each community is also required to perform interim year adjustments in an effort to prevent major swings of property values. Changing the frequency to five years will enable communities to save money and allow BLA staff to focus their efforts in a more concerted manner.

Single Overlay Account (Sections 126, 127, 143, 246) - These sections would create a single overlay reserve to cover the costs of potential abatements granted by the assessors or ordered by the Appellate Tax Board. By having a single account, municipalities would be more likely to avoid deficits and, in some years, may be able to avoid raising additional amounts for the fund. Assessors still declare overlay surpluses.

Supplemental Assessments & Pro-Rata Abatements (Sections 110, 111, 112, 113, 244) - These sections amend MGL c. 59, s. 2D, which, unless rejected by a city or town, provides for a pro-rated additional assessment on new construction after the January 1st assessment date upon issuance of an occupancy permit during the fiscal year. The existing law also provides for a pro-rated abatement if a property is damaged by fire or other natural disaster during the year. The additional assessment and abatement are triggered when these events result in a value change of over 50%.

The proposed legislation amends existing law to *exclude the value* of the land from the calculation of the 50% change in value. In some communities, the land values or parcel size may result in the 50% trigger for some owners of new residences or commercial structures, but not for other, similarly-situated taxpayers. The change also applies to taxpayers who suffered a 50% loss in the value of their home due to fire or other natural disaster during a fiscal a year and would give them

a year after that event to apply for a pro rata abatement.

State Owned Land (Sections 106,107, 249) - This proposed language seeks to eliminate the current procedure under which BLA values state owned land (SOL) every four years. Instead, the valuation will be based on a statutory formula. The formula will be updated every two years using the equalized valuation and the value of acquisitions and dispositions. Moving to a formula based system will save time and resources and reduce unnecessary bureaucratic burdens.

Central Valuation (Sections 128-130) - These amendments would clarify the types of telecommunications companies subject to central valuation by defining a telephone company to include only those landline incumbent local exchange carriers (ILECs) under the federal Telecommunications Act. They also allow DOR to share community specific information from the returns filed by telephone and pipeline companies with local assessors so they can make an informed decision whether to appeal and provide for a more streamlined and expeditious appeal process by allowing one party to file a notice of appeal in response to another party's filing.

Boat Excise Administration and Collection (Sections 166, 185, 186 and 247) - The proposed legislation amends MGL c. 60B and MGL c.90B to modernize the administration and collection of the annual local boat excise tax. The amendments do not change the statutory valuation structure. They include a procedure to withhold renewal of a boat registration unless the prior year's excise is paid and update the excise exemption for fishing boats and gears to reflect changes in the industry that no longer make it a full time occupation for some fishermen.

District Improvement Financing (Sections 42-47) - Amends MGL c. 40Q, the district improvement financing statutes so that the "DIF" reserved for debt service and project costs equals the new property tax revenue generated by new development and added to the community's levy limit as new growth under Proposition 2 1/2. They also clarify that the requirement to reserve tax increment funds ends when monies are set aside to pay all debt service. The formula in the law is based on models used in other states that do not have levy limitations or require tax rate recalculation based on current values, i.e., where valuation increases generate additional revenue. For this reason, the tax increment is very difficult for local assessors to calculate and more importantly does not actually reflect the new property tax revenue generated by the project.

Affordable Housing Abatements (Sections 104-105, 139-140) - Amends MGL c. 40B to allow local implementation of affordable housing abatement agreements in the same manner as brownfield abatement agreements under MGL c. 59, s. 59A. The brownfield abatement agreement is an entirely local process with an implementation by-law or ordinance providing transparency in allowable abatements within the statutory parameters. That process would be

appropriate for affordable housing abatements as well.

Exemption Applications (Sections 117, 119, 121-122, 138, 242) - These section amend MGL c.59, s. 5 to create a single due date for personal exemption applications regardless of billing system used. This section would make April 1 the deadline for personal exemption applications in all communities, creating a uniform and consistent deadline for taxpayers.

Residential Exemption (Sections 120, 242) - Amends MGL c.59, s. 5C, to increase from 20% to 35% the statutory limit on the amount of a residential exemption that can be granted, if a municipality grants such an exemption as one of its property tax classification options. Five of the thirteen municipalities that have decided to grant such an exemption have asked for, and received approval for, residential exemption amounts that are higher than the current statutory limit of 20%.

For additional information including the full bill text, please see the below links.

- Bill Text & Filing Letter
- Section by Section (DOC)
- Section by Section (PDF)
- Press Release

Bureau of Accounts Muni Modernization Highlights

MJ Handy - Bureau of Accounts Director

Several proposals in "An Act to Modernize Municipal Finance and Government" relate to municipal accounting practices, policies, and requirements.

Rental Revolving Fund (Section 19) - Amends MGL c. 40, s 3 to allow for the rent and lease payments from other municipal properties not in current use to be maintained in a revolving fund to cover the costs of maintaining the property.

Departmental Revolving Funds (Sections 84 and 85) - Amends MGL c. 44, s 53E1/2 to eliminate the caps and would allow the communities to establish the funds by by-law or ordinance.

Reserve Fund for Extraordinary and Unforeseen Expenses (Section 20) - Amends MGL c. 40, s. 5A to create consistency with the percentage level for towns and districts. Section 20 of the proposed bill increases to 5% the annual reserve fund for extraordinary and unforeseen expenses for cities.

Stabilization Funds (Section 21) - Amends MGL c. 40, s. 5B to eliminate the existing cap, updates the language regarding the investment standard for the funds, which includes allowable deposits and investments for public monies, and allows municipalities and districts to dedicate a particular revenue stream other than property taxes to a fund without further appropriation.

Municipal and District Borrowing Purposes (Sections 60, 62, 63, 68, 172, 236 and 237) - Updates the statutes of MGL c. 44, s. 7 and s. 8 that provide the authority for cities, towns and improvement districts to borrow. The proposal consolidates some of the allowable borrowings in both statutes and eliminates some that are completely outdated. It adds purposes for which borrowing should be allowed, and has been allowed, under special bills, e.g., installation of a municipal broadband system without having a municipal light plant or for improvements to private ways open to the public. It also allows longer terms of some borrowings consistent with any asset useful life guidelines issued by the Director of Accounts and in the case of court judgments allows a longer term if approved by the Municipal Finance Oversight Board.

Borrowing In Anticipation of Grants (Section 61) - Amends MGL. c. 44, s. 6, s. 6A to allow local government entities to borrow in anticipation of receipt of any state or federal grant for capital purposes.

Bond Anticipation Notes (BANs) (Section 64) - Amends MGL. c. 44, <u>s 17</u> to allow to cities, towns, and districts to renew bond anticipation notes (BANs) for up to ten years from the current to five years. Annual pay-downs of principal are required after the second year.

Refunding Bonds (Sections 65 and 67) - Amends MGL. c. 44, s. 19 and s. 21A, the provisions of the municipal finance law that prescribe the repayment of debt and authorize refunding bonds to be issued in order to allow a later final payment within the last fiscal year of the original loan obligation and to have the flexibility to maintain the federal tax exempt status of bonds after issue.

Bond Premiums (Section 66) - Amends MGL. c. 44, s. 20 to provide communities with a choice regarding how to treat bond premiums (net of issuance costs). Communities will be able to either apply it to the issuance, thereby reducing the amount needed to borrow, or place it in a separate fund and appropriate it for a capital project.

Use of Surplus Bond Proceeds (Section 66) - Amends MGL c. 44, s. 20 to increase the amount of surplus bond proceeds that can be applied to debt service from \$1,000 to \$50,000.

Expenditures from State and Federal Grants (Section 83) - Amends MGL c. 44, s. 53A to allow expenditure of state and federal grants for which the monies are not received in advance, i.e., reimbursement grants, upon a commitment of the granting government.

Injured on Duty Fund (Section 57) - Amends MGL c. 41, s. 111F to allow municipalities to create, appropriate money to and expend from a special injury leave indemnity fund for payment of police officer and firefighter injury leave compensation or medical bills, rather than charging them to current departmental appropriations.

Eliminate Debt Report (Section 69) - Amends MGL c. 44, s. 25 to eliminate the requirement that the municipal treasurer notify the director of accounts when a payment is made. This eliminates the need to notify of duplicative information, as the annual year-end statement of indebtedness shows changes in debt levels over the course of the year.

Court Judgments (Sections 71 and 72) - Amends MGL c. 44, s. 31 to allow payment without appropriation of final court judgments and other final adjudicatory claims with municipal counsel certification. Currently, such payments over \$10K, require the approval of the director of accounts. Further, the bill amends the statute to reflect the current operating environment where obligations to make immediate payments based on various legal claims now are just as likely to result from decisions of administrative agencies rather than just court judgments.

Year End Transfers (Sections 74 and 75) - Amends MGL c. 44, s. 33B to eliminate the limits on types and amounts of appropriation transfers that can be made by the selectmen with finance committee approval at end of year. This would allow end-of-fiscal-year transfers from health insurance, debt service or other unclassified/non-departmental line item appropriation and eliminate a cap of 3% on the amount that may be transferred from any department (school and light department line items remain exempt from this procedure). Eliminating the cap on transfers will provide for greater flexibility in avoiding deficits and eliminate the need for additional town meetings by July 15th for minor transfers.

Insurance/ Restitution Funds (Section 82) - Amends MGL c. 44, s. 53 to increase the amount that may be spent without appropriation to restore or replace the damaged property from \$20,000 to \$150,000 and updates the lost or damaged school book and materials restitution exception to include electronic devices and equipment provided to students.

For additional information including the full bill text, please see the below links.

- Bill Text & Filing Letter
- Section by Section (DOC)
- Section by Section (PDF)
- Press Release

Technical Assistance Bureau Muni Modernization Highlights

Zack Blake - Technical Assistance Bureau Director

Several proposals in "An Act to Modernize Municipal Finance and Government" relate to government structure, financial management, and procurement.

Restructuring Government (Sections 49-51, 58, 59) - This bill streamlines processes for making structural modifications to local governments. One change allows a community's chief executive body to initiate a charter adoption or revision through a charter commission instead of requiring a citizens' petition (Sections 58, 59). Another allows a municipality to combine its treasurer and tax collector positions into one, appointed office without needing a special act of the state legislature (Sections 49, 50). Yet another component extends the allowable term for a town administrator from three years to five (Section 51).

Financial Management Flexibility (Sections 14, 74, 75, and 239) - This bill contains a proposal to permit the creation of Other Post-Employment Benefits (OPEB) trust funds without requiring special legislation (Sections 14, 239). This change clarifies the current language, which only authorizes a stabilization fund for retiree health insurance purposes. Several sections grant towns greater flexibility by eliminating certain limits on the year-end transfers that select boards can make with finance committee approval (Section 74, 75). The proposal allows end-of-fiscal-year transfers from health insurance, debt service, and other unclassified/non-departmental line-item appropriations and also eliminates the three percent cap on departmental transfer amounts. This will help communities avoid deficits and preclude the need to call additional town meetings for minor transfers.

Simplifying and Streamlining Procurement (Sections 1-12, 222-225, 227-228) - Several proposed changes simplify the maze of state mandates and regulations that communities must navigate when purchasing goods and services:

Sections 1-3, 6-7, 9-12 amends the "horizontal" construction procurement statute (MGL c. 30, s. 39M) to increase the dollar threshold for contracts requiring less-than-full competitive bidding from \$10K to \$50K. These sections also make procurement methods consistent with other construction and municipal procurement statutes by adding a "middle tier" of contracts valued between \$10K to 50K, for which public entities may either give public notification of the contract or use OSD statewide contracts or other "blanket" contracts to solicit a minimum of three bids. Finally, these sections make conforming

changes to dollar thresholds for existing exemptions under MGL c. 30, s. 39M and the municipal procurement statute, MGL c. 30B.

- Sections 4 and 226 creates exemptions from construction bidding for contracts for the "installation, repair and maintenance of telecommunication and data cabling and wiring; telecommunication, security, audiovisual and computer equipment; and carpeting." These sections require that such contracts be procured through Operational Service Division (OSD) statewide contracts, but they preserve the discretion of public entities to follow construction procurement rules if it is in the "best interest" of the project (e.g., if such work is part of a larger construction project).
- Sections 8 and 229 modifies the public advertising requirements for contracts awarded under the competitive bidding provisions of c. 30B, the municipal procurement statute, and MGL c. 149, the "vertical" construction bidding statute, to permit advertising on the COMMBUYS system, rather than through newspapers.
- Sections 222-25, 227-28 amends the "vertical" construction procurement statute, MGL c. 149, s. 44A, to increase the dollar threshold for contracts requiring less-than-full competitive bidding from \$25K to \$50K. They also make procurement methods consistent with other construction and municipal procurement statutes by modifying the method for "middle tier" contracts, i.e. those valued between \$10K to 50K, to permit public entities to either give public notification of the contract or use OSD statewide contracts or other "blanket" contracts to solicit a minimum of three bids. These sections increase the dollar thresholds for both contracts requiring competitive bidding (from \$100K to \$150K for first tier) and for the triggering of the requirement to submit "sub-bids" and "sub-trade" bids.

Unemployment Insurance (Sections 230-31) - These sections extend existing exemptions from unemployment insurance benefits - which are applicable to school employees absent during sabbaticals and school vacations with a "reasonable assurance" of returning to work - to employees who provide services to or on behalf of schools but are paid by municipalities. These sections also reduce the amount of unemployment insurance benefits to 65% for employees receiving government pensions.

Civil Service Exemptions (Section 241) - This section permits municipalities to exempt positions from civil service rules by vote of the governing body or executive rather than requiring special legislation to obtain an exemption from MGL c. 31.

Local Advertising (Sections 18, 25-29, 36-39) - These sections

amend the public notice requirement for town warrants necessary for every town meeting or election (Section 18), the public notice requirements for zoning bylaws or amendments, and associated public hearings notices (Sections 25-29, 36-39). Current law requires posting of a recently approved zoning bylaw or proposed amendment in a town bulletin or pamphlet in several locations in the town or publication in newspapers and cities must publish these in newspapers. Public hearing notices must be published in newspapers and posted at the city or town hall. These proposed legislation permits cities and towns to post all zoning-related notices in any manner prescribed or approved under the Open Meeting Law.

Direct Deposit (Section 53) - This section authorizes any city or town that accepts the section to require the use of direct deposit to pay employees.

Approval of Bills/Warrants (Sections 54-55) - These sections allows any multi-member boards, committees, and commissions heading departments, including boards of selectmen, to designate one of its members to review and approve bills or payment warrants, with a report provided at the next meeting. Currently, a board or committee heading a department may delegate authority to approve payrolls to a member, and a regional school committee may designate a subcommittee to approve bills and payrolls with a report to the next meeting of the full committee. Absent a charter or special act, boards and committees must approve bills or payment warrants by majority vote at a meeting subject to the Open Meeting Law.

Revenue Cash Investment (Section 92) - This section amends current law to permit investment in certificates of deposit (CDs) for up to three years, an increase from the current, no-longer-than-one-year requirement. This change also addresses an ambiguity in the statute as to whether a one-year limit applies to these investments or solely to investments in United States treasury bonds. It would give treasurers more flexibility in investing shortterm for better rates.

Schedule A Compliance (Section 108) - This section improves compliance for municipal reporting by changing from October 1st to November 30th the annual deadline for cities and towns to submit the prior year's annual financial report. This would also modify the law to provide the intended consequence for noncompliance and withhold all future payments (regardless of fiscal year) until such time as the Schedule A is submitted and accepted.

For additional information including the full bill text, please see the below links.

- Bill Text & Filing Letter
- Section by Section (DOC)
- Section by Section (PDF)

Press Release

OSD Provides New Guide to Posting Building Construction Contracts

Operational Services Division

Municipalities are required to post building construction contracts in COMMBUYS, the state's online procurement system, as specified under MGL c. 149.

The Operational Services Division (OSD) has developed a one-page Quick Reference Guide to walk municipal buyers through the COMMBUYS bid posting process. Find the Posting a Municipal Construction Advertisement or Bid Announcement on COMMBUYS Quick Reference Guide in the COMMBUYS Resource Center under "Job Aids for Buyers."

Additional Resources:

- Read the <u>Inspector General's communication</u> outlining COMMBUYS posting requirements.
- <u>Learn about COMMBUYS</u> and becoming a COMMBUYS purchasing organization.
- View various complimentary training opportunities in <u>OSD's</u>
 Buyer Training Schedule.

December Municipal Calendar

December 1	Taxpayer	Deadline for Applying for Property Tax Exemptions for Persons
		If tax bills are mailed after September 15, taxpayers have 3 months from the mailing date to file applications for exemptions.
December 15	Accountant/ Superintendent/ School Committee	Submit Amendments to End of School Year Report to DESE

		1
		Last filing date to impact next year's Chapter 70 State Aid.
December 31	Water/Sewer Commissioners	Deadline for Betterments to be Included on Next Year's Tax Bill (M.G.L. Ch. 80, Sec. 13; Ch. 40, Sec. 42I and Ch. 83, Sec. 27)
December 31	Selectmen	Begin to Finalize Budget Recommendation for Review by Finance Committee
December 31	Assessors	Mail 3ABC Forms to Charitable Organizations and Forms of List to Personal Property Owners.
December 31	Collector	Deadline for Mailing Actual Tax Bills For communities using the annual preliminary billing system on a quarterly or semi-annual basis, the actual tax bills should be mailed by this date.
Final Day of Each Month	State Treasurer	Notification of monthly local aid distribution. Click www.mass.gov/treasury/cash- management to view distribution breakdown.

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